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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PENDLETON DIVISION

WESTERN WATERSHEDS PROJECT,
OREGON NATURAL DESERT ASS'N,
WILDEARTH GUARDIANS, and
CENTER FOR BIOLOGICAL
DIVERSITY,

Plaintiffs,

v.

SECRETARY OF THE UNITED
STATES DEPARTMENT OF THE
INTERIOR and BUREAU OF LAND
MANAGEMENT,

Defendants.

Case No. 2:21-cv-297-HL

**FIFTH JOINT MOTION TO
EXTEND TIME TO RESPOND
TO THE COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 6(b), Defendants the Secretary of the Interior and the United States Bureau of Land Management (“the Bureau”) and Plaintiffs Western Watersheds Project *et al.* jointly move for an additional 30-day extension of time for Defendants’ response to Plaintiffs’ complaint. As explained below, good cause exists for the Court to grant this motion. The parties request this further extension in order to allow the parties to continue to evaluate the impact on this litigation of the Department of the Interior’s rescission of a grazing authorization previously issued to Hammond Ranches, Inc., and its stated intention to offer further public involvement in the National Environmental Policy Act (NEPA) process and complete a new decision. Pursuant to Local Rule 7-1(a)(1), the parties conferred on this motion and have resolved the issue as described in this joint motion.

Plaintiffs challenge former Secretary David Bernhardt’s January 19, 2021 decision to issue a new livestock-grazing permit to Hammond Ranches, Inc. for the Bridge Creek Area allotments, as well as the Bureau’s supporting Environmental Assessment (EA) and Finding of No Significant Impact (FONSI). Plaintiffs filed this action challenging that decision and EA/FONSI on February 25, 2021. The next day, Senior Advisor to the Secretary Laura Daniel-Davis issued a new decision, which rescinded Secretary Bernhardt’s January 19, 2021 decision to issue

the new grazing permit and remanded the matter to the Bureau for additional consideration. *See* Notice of Rescission, ECF No. 10-1. The Notice of Rescission indicated that the protest period provided for by 43 C.F.R. § 4160.2 had not properly concluded before the January 19, 2021 decision issued and encouraged the Bureau to initiate additional processes and provide additional opportunities for public involvement in those processes as the Bureau determined appropriate. The Notice of Rescission left intact the EA and FONSI.

On April 9, 2021, the Bureau posted a notice on its ePlanning website announcing that it would offer further public involvement in the NEPA process for the Bridge Creek Allotments Management Plan and would post an updated NEPA analysis for public review and comment “[i]n the coming months.”¹ No further NEPA analysis has yet issued. No grazing is currently authorized on the allotments.

The parties continue to evaluate the implications of the February 26, 2021 Notice of Rescission and BLM’s April 9, 2021 announcement on the litigation and are continuing their discussions about those implications. Additionally, details about the NEPA process contemplated by that announcement will become more clear over the next 30 days, as BLM presently anticipates publishing a Notice of

¹ *See* April 9, 2021 ePlanning Announcement, available at <https://eplanning.blm.gov/eplanning-ui/project/1504684/510>.

Intent (“NOI”) within the next 30 days. The NOI is in final review at the Department of the Interior. In order to allow that process to develop and the parties’ discussions to continue, the parties respectfully request that the Court extend Defendants’ deadline to respond to Plaintiffs’ complaint by an additional thirty days, until December 29, 2021.

Through counsel, the Bureau has stated to Plaintiffs that in addition to engaging in a new or further NEPA process, the Bureau will not authorize livestock grazing, including Temporary Nonrenewable grazing, on the Bridge Creek allotments in the next 30 days. The Bureau further states that its process and regulations will assure that the public has advance notice before the agency issues any final grazing decision and that in no event shall grazing commence on the Bridge Creek allotments without at least 30 days’ notice to Plaintiffs and the Court. In the event that the Bureau considers an option that could allow grazing to be authorized sooner than 30 days, counsel for the Bureau will notify Plaintiffs and the Court at least 30 days in advance of when grazing could be authorized. The Bureau agrees to provide such notice up until the time it files a response to the complaint.

Plaintiffs’ position, joining and not opposing this motion, is conditioned on the above representations of counsel for the Bureau, and Plaintiffs reserve the

right, should circumstances change, to seek injunctive or other appropriate relief if necessary to protect their interests. The parties would first seek to resolve any such dispute through conferral as required under this Court's Local Rules.

Dated this 23rd day of November, 2021.

Respectfully submitted,

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